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EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF HOME AFFAIRS

[Border Security (1) Section]

NOTIFICATION

New Delhi, the 27th August 1969

S.O. 3477.—In exercise of the powers conferred by clause (k) of sub-section (2) of section 141 of the Border Security Force Act, 1968 (47 of 1968), the Central Government hereby makes the following rules namely:—

1. **Short title.**—These rules may be called the Criminal Courts and Border Security Force Courts (Adjustment of Jurisdiction) Rules, 1969.

2. **Definitions.**—In these rules, unless the context otherwise requires:—

(i) "Act" means the Border Security Force Act, 1968 (47 of 1968);

(ii) "Commandant", in relation to a person subject to the Act, means the Officer Commanding the unit or detachment to which such person belongs or is attached;

(iii) "competent authority" means the Director General, Inspector General, or a Deputy Inspector General of the Border Security Force;

(iv) words and expressions used in these rules and not defined but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. **Trial of person subject to the Act.**—Where a person subject to the Act, is brought before a Magistrate and charged with an offence for which he is liable

to be tried by a Border Security Force Court, such a Magistrate shall not proceed to try such person or to inquire with a view to his commitment for trial by the Court of Sessions or the High Court for any offence triable by such Court, unless,—

(a) he is of opinion, for reasons to be recorded in writing that he should so proceed without being moved thereto by the competent authority; or

(b) he is moved thereto by such authority.

4. **Notice by Magistrate.**—Before proceeding under clause (a) of rule 3, the Magistrate shall give written notice to the Commandant of the accused and until the expiry of a period of:—

(i) three weeks, in the case of a notice given to a Commandant in command of a unit or detachment located in any of the following areas, that is to say,—

(a) State of Nagaland;

(b) Mizo Hill, Garo Hill, Khasi and Jaintia Hill and North Cachar Hill Districts of Assam, or

(ii) ten days in the case of a notice given to any other Commandant in command of a unit or detachment located elsewhere in India,

from the date of the service of such notice, he shall not,—

(a) convict or acquit the accused under section 243 or section 245 or section 247 or section 248 of the Code of Criminal Procedure, 1898 (5 of 1898) or hear him in his defence under section 244 of the said Code; or

(b) frame in writing a charge against the accused under section 254 of the said Code; or

(c) make an order committing the accused for trial by the High Court or the Court of Sessions under section 213 of the said Code; or

(d) transfer the case for inquiry or trial under section 192 of the said Code.

5. **Procedure on notice to the Magistrate.**—Where within the period mentioned in rule 4 above, or at any time thereafter before the Magistrate has done any act or made any order referred to in that rule, the Commandant of the accused or the competent authority, as the case may be, gives notice to the Magistrate that in the opinion of such authority, the accused should be tried by a Border Security Force Court, the Magistrate shall stay proceedings and if the accused is in his power or under his control, shall deliver him with the statement prescribed in sub-section (1) of section 549 of the Code of Criminal Procedure 1898 (5 of 1898) to the authority specified in the said sub-section.

6. **Procedure on notice to Magistrate before commencement of trial.**—Where a Magistrate has been moved by the competent authority under clause (b) of rule 3, and the Commandant of the accused or the competent authority, as the case may be, subsequently gives notice to such Magistrate that, in the opinion of such authority the accused should be tried by a Border Security Force Court, such Magistrate if he has not before receiving such notice, done any act or made any order referred to in rule 4, shall stay proceedings, and, if the accused is in his power or under his control, shall in the like manner deliver him, with the statement prescribed in sub-section (1) of section 549 of the Code of Criminal Procedure, 1898 (5 of 1898) to the authority specified in the said sub-section.

7. **Intimation regarding trial of accused.**—(1) When an accused has been delivered by the Magistrate under rule 5 or 6, the Commandant of the accused or the competent authority, as the case may be, shall, as soon as may be, inform the Magistrate whether the accused has been tried by a Border Security Force Court or other effectual proceedings have been taken or ordered to be taken against him.

(2) When the Magistrate has been informed under sub-rule (1) that the accused has not been tried or other effectual proceedings have not been taken or not ordered to be taken against him the Magistrate shall report the circumstances to the State Government, which may, in consultation with the Central Government, take appropriate steps to ensure that the accused person is dealt with in accordance with law.

8. **Reference to Central Government for determination of court of trial.**—Notwithstanding anything contained in the foregoing rules, where it comes to the notice of a Magistrate, that a person subject to the Act has committed an offence, proceedings in respect of which ought to be instituted before him and that the presence of such person cannot be procured except through the Commandant or the competent authority, the Magistrate may, by a written notice, require the Commandant of such person either to deliver such person to a Magistrate to be named in the said notice for being proceeded against according to law, or to stay the proceedings against such person before the Border Security Force Court, if since instituted, and to make a reference to the Central Government for determination as to the court before which proceedings should be instituted.

9. **Delivery of accused to the Magistrate.**—Where a person subject to the Act has committed an offence which, in the opinion of competent authority ought to be tried by a Magistrate in accordance with the civil law in force or where the Central Government, on a reference mentioned in rule 8, decides that the proceedings against such person should be instituted before a Magistrate, the Commandant of such person shall, after giving a written notice to the Magistrate concerned deliver such person under proper escort to that Magistrate.

[No. F.31/4/69-BS.I.]

B. VENKATARAMAN, Jt. Secy.

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